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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10

11 United States of America,
Plaintiff,
12
13 v.
14 Angel Noel Guevara, et.al.,
Defendant.
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Case No.: CR 08-00730 WHA

**STIPULATION AND PROTECTIVE
ORDER RE RECORDS OF
JOSHUA DORMER**

Date: November 16, 2010
Courtroom: 9
Judge: The Honorable William Alsup
Trial Date: March 7, 2011

18 On October 20, 2010, defendant Angel Noel Guevara served a subpoena
19 on the Alameda County Sheriff's Office which requested the confidential and privileged
20 personnel files of Alameda County Sheriff's Deputy Joshua R. Dormer # 1932. The
21 Attachment to the subpoena described six (6) categories of *Henthorn/Pitchess*
22 materials reflecting, inter alia, complaints by citizens or other police officers,
23 reprimands and/or disciplinary action related to (1) fabrication of facts and evidence;
24 (2) racial bias; (3) improper searches or seizures; (4) improper interrogations; (5)
25 unlawful use of controlled substances or consumption of alcohol while on duty; and (6)
26 dishonesty.

27 In accordance with this court's "Order Re Defendant Guevara's First Ex parte
28 Application for Issuance of Subpoena" filed under seal on September 7, 2010 directing

1 Alameda County Sheriff's Office to produce any responsive documents to the Court for
2 an *in camera* review, the Alameda County Sheriff's Office custodian of records
3 produced personnel records of Deputy Joshua R. Dormer to the Deputy Courtroom
4 Clerk of the Court on November 16, 2010. In further compliance with this court's order,
5 Alameda County Sheriff's Office and Defendant Angel Noel Guevara, through their
6 respective counsel, Beatrice Liu, Deputy County Counsel, and Lupe Martinez and
7 Jennifer Naegele, agree and stipulate to the following protective order in the event the
8 Court determines that any documents will be disclosed to the defendant.

9 In order to protect the sensitive and confidential information and records from
10 unwarranted disclosure, and to protect the privacy rights of Deputy Dormer, it is hereby
11 stipulated and agreed as follows:

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13 **PROTECTIVE ORDER**
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15 1. The Court shall conduct an *in camera* review of the documents produced by
16 the Alameda County Sheriff's Office. After completion of such review, if the Court
17 determines that certain confidential information and documents respecting the
18 personnel records produced are to be disclosed to defense counsel, such disclosure
19 shall be subject to this Protective Order.

20 2. The attorneys for Angel Noel Guevara shall personally secure and maintain
21 the protected documents in their possession to the end that said protected documents
22 are to be used only for the purposes set forth below and for no other purpose.

23 3. The protected documents shall be used only in preparation for and in the
24 prosecution or defense of this case, pending completion of the judicial process,
25 including appeal. The protected documents will remain protected from disclosure after
26 completion of the judicial process in this matter. All documents, if filed with the Court,
27 shall be filed under seal absent a court order with notice to all parties. All documents
28

1 produced pursuant to this Order shall be returned to the court under seal at the
2 conclusion of these proceedings.

3 4. Protected documents shall not be disseminated publicly. Under no
4 circumstances shall the confidential peace officer personnel record information and
5 documents ordered disclosed by this Court be used in any proceeding other than this
6 action, *United States of America v. Angel Noel Guevara, et al.*, Case No. CR-08-0730-
7 WHA.

8 5. Protected peace officer personnel record information and documents shall not,
9 either orally or by writing, be inputted into any file, computer program, or database, or
10 listed manually in any file, manual, notebook, listing, or other writing as it pertains to law
11 enforcement personnel, except any computer program or case file, manual, notebook,
12 listing or other writing maintained specifically for this action, *United States of America v.*
13 *Angel Noel Guevara, et al.*, Case No. CR-08-0730-WHA.

14 6. The attorneys for the defendant Angel Noel Guevara, including any and all
15 investigators, paralegal assistants or other consultants or agents hired to assist the
16 attorneys for the parties in this action, shall at all times maintain the confidentiality of all
17 peace officer personnel record information and documents ordered disclosed. No one
18 shall copy or divulge said information, either in writing or orally, to anyone not having a
19 need to, or access to, said information for any purpose whatsoever.

20 7. At the conclusion of this action, and in order to allow defendant to exhaust his
21 right to appeal and/or pursue any habeas corpus action, the attorneys for the parties
22 shall either destroy, or return to the Alameda County Sheriff's Office within one (1) year
23 after judgment is final, all originals or copies of all confidential peace officer personnel
24 documents and materials ordered disclosed by this Court, including without limitation,
25 any delivered by the attorneys for the parties to any third party agent.

26 8. Each person receiving a copy of a protected document shall, before being
27 given a copy, shall be given a copy of this Protective Order and a compliance
28 agreement (in the form attached hereto as Exhibit "A") and shall execute the


1 compliance agreement, and return the original of the compliance agreement to the
2 attorney who gives him/her the copy of the protected document(s). It shall be the
3 responsibility of the respective attorneys to distribute compliance agreements, and then
4 collect and maintain custody of the executed originals of the compliance agreements.

5 At the conclusion of the legal proceedings in this matter, each person who has
6 received a copy of protected documents shall return all such protected documents to
7 the attorneys for the party who gave him/her the copy of the protected documents.

8 9. Disobedience of this Protective Order may be treated as a Contempt of Court.

9 **IT IS SO STIPULATED.**

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11 Dated: December 23, 2010


LUPE MARTINEZ
JENNIFER NAEGELE
Attorneys for Defendant Angel Noel
Guevara

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16 DATED: December 21, 2010

RICHARD E. WINNIE, County Counsel
in and for the County of Alameda, State
of California

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19 By 
20 Beatrice Liu
21 Deputy County Counsel

22 Attorneys for County of Alameda

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24 **ORDER**

25 Based upon the stipulation of the parties, and good cause appearing, IT IS SO
26 ORDERED.
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1 Dated: January 3, 2011.



The Honorable William H. Alsup
United States District Judge

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6 EXHIBIT A
7 COMPLIANCE AGREEMENT
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9 I, _____, do solemnly swear that I have received a copy of
10 and am fully familiar with the terms of the Protective Order in the case *United States of*
11 *America v. Angel Noel Guevara, et.al.*, Case No. CR-08-0730 WHA, and hereby agree
12 to comply with and be bound by the terms and conditions of said Protective Order
13 unless and until modified by further Order of the Court. I hereby consent to the
14 jurisdiction of said Court for purposes of enforcing such Order.
15

16
17 Dated: _____

Sign Name

Print Name

Address

Telephone Number